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11
12 **UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF NEVADA**

14 SCOTT FESSLER,

15 Plaintiff,

16 vs.

17 ELDORADO RESORTS CORPORATION, a
18 Florida Corporation; MICHAEL MARRS;
BRUCE POLANSKY; KRISTEN BECK;
19 DOMINIC TALAGANI; JAMES GRIMES;
and DOES 1-50, inclusive,

20 Defendants.
21
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Case No. 2:15-cv-01487-RFB-PAL

**JOINT DISCOVERY PLAN AND
SCHEDULING ORDER**

**SPECIAL SCHEDULING REVIEW
REQUESTED**

23 Defendant Eldorado Resorts Corporation, Michael Marrs, Kristen Beck and Dominic
24 Taleghani (collectively "Defendants") and Plaintiff Scott Fessler ("Plaintiff"), by and through their
25 respective counsel, hereby submit to the Court the following Joint Proposed Discovery Plan and
26 Scheduling Order ("DPSO") pursuant to Fed. R. Civ. P. 26(f) and Local Rule 26-1(e).

27 **I. Procedural History**

28 Plaintiff filed a Complaint on August 4, 2015, in the United States District Court, District

of Nevada. (ECF No. 1.) On December 2, 2015, Defendants were served a copy of the Summons and Complaint. (ECF No. 8.) Plaintiff filed a First Amended Complaint on February 19, 2016. (ECF No. 12.) Defendants moved to dismiss Plaintiff's First Amended Complaint on March 11, 2016. (ECF No. 13.) The parties have fully briefed the motion, and are awaiting the Court's decision. No answer has yet been filed in this matter.

II. Fed. R. Civ. P. 26 Meeting

On July 1, 2015, Counsel for Defendants, Anthony L. Martin and Jill Garcia, and counsel for Plaintiff, Daniel Watkins, met to discuss a consolidated discovery plan, discussing the deadlines for each of the consolidated matters. On July 15, 2015, the parties filed a Proposed Stipulation and Order to Consolidate Related Matters for Discovery, Initial Motion Practice and Other Related Scheduling Dates in *Chaveratana Susie Ledvina v. Eldorado Resorts Corporation, et al*, 2:14-cv-01414-RFB-PAL (ECF No. 40), granted by the Court on September 4, 2015 (ECF No. 46.) The parties held a supplemental Rule 26(f) Conference May 23, 2016, wherein the parties discussed all matters related to amendments to the Local Rules of Federal Practice, enacted on May 1, 2016.

III. Initial Disclosures

Defendants served their Initial Disclosures on April 26, 2016. Plaintiff will serve his Initial Disclosures on or before **June 6, 2016**.

IV. The Subjects On Which Discovery Will Be Conducted

The parties are in agreement that discovery will be needed on the Plaintiff's claims and causes of action, his damages, including any economic, compensatory and emotional distress damages, as well as the Defendants' defenses to the same.

V. Issues Related To The Disclosure Or Discovery Of Electronically Stored Information

The parties hereby certify that they discussed whether they intend to present evidence in electronic format to jurors for the purposes of jury deliberations. At this time, the parties believe that this case may involve or require the inspection or production of some electronically stored information ("ESI"). To the extent a party requests ESI, the parties agree that the ESI can be produced as a readable image (e.g., .pdf or .tiff) file, while reserving the right to seek ESI

thereafter if necessary and to the extent readable images are insufficient in establishing any claims or defenses. If a party later requests the ESI be produced in its native format and/or as a forensic copy, the parties agree to meet and confer to determine the parameters of the production and to produce according to the Federal Rules of Civil Procedure and LR 26-1(b)(9).

VI. Issues Relating To Claims Of Privilege Or Attorney Work Product

The parties agree to be bound by Federal Rule of Evidence 502 regarding the disclosure of privileged material or work product. Further, the parties acknowledge and agree that while each is taking reasonable steps to identify and prevent disclosure of any document which they believe is privileged, there is a possibility that certain privileged material may be produced inadvertently. Accordingly, the parties agree that a party who produces a document protected from disclosure by the attorney-client privilege, attorney work product doctrine or any other recognized privilege (“privileged document”) without intending to waive the claim of privilege associated with such document may promptly, meaning within fifteen (15) days after the producing party actually discovers that such inadvertent disclosure occurred, amend its discovery response and notify the other party that such document was inadvertently produced and should have been withheld. Once the producing party provides such notice to the requesting party, the requesting party must promptly, meaning within seventy-two (72) hours, return the specified document(s) and any copies thereof. By complying with this obligation, the requesting party does not waive any right to challenge the assertion of privilege and request an order of the Court denying such privilege.

VII. Discovery Disputes

The parties agree that before moving for an order relating to discovery after complying with the Federal Rules of Civil Procedure and applicable Local Rules of this District Court, the moving party must request a status conference with the Court pursuant to Fed. R. Civ. P. 16(b)(3)(v).

VIII. Limits On Discovery

At this time, the parties agree that discovery will be conducted with the Federal Rules of Civil Procedure and applicable Local Rules of this District Court without limitation or modification of the same.

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IX. Alternative Dispute Resolution

The parties hereby certify that they have met and conferred about the possibility of using alternative dispute resolution processes.

X. Alternative Forms Of Case Disposition

The parties hereby certify that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-01). Defendants anticipate seeking an appointment of a special master who could oversee discovery, motions, and pretrial issues in the Consolidated Matters. While the parties met and conferred on this issue, Plaintiff opposes the appointment of a special master in this case.

XI. Discovery Plan

All discovery in this case will be conducted in accordance with the Federal Rules of Civil Procedure and applicable Local Rules of this District Court. The parties propose to the Court the following cut-off dates:

- a. **Discovery Cut-off Date:** The discovery cut-off deadline shall be **Monday, August 8, 2016**.
- b. **Amending the Pleadings and Adding Parties:** The deadline to amend pleadings or add parties shall be **Tuesday, May 10, 2016**, ninety (90) days prior to the discovery cut-off date of August 8, 2016, in accordance with LR 26-1(e)(2).
- c. **Expert Disclosures:** The expert disclosure deadline shall be **Thursday, June 9, 2016**, sixty (60) days prior to the discovery cut-off date of August 8, 2016, in accordance with LR 26-1(e)(3). Rebuttal expert disclosures shall be made by **Monday, July 11, 2016**, thirty-two (32) days after the initial disclosure of experts deadline, in accordance with LR 26-1(e)(3) (the 30th day falls on a Saturday). The parties shall have until the discovery cut-off date to take the depositions of the experts. Expert discovery will be conducted in accordance with applicable Federal Rules of Civil Procedure and Local Rules of this District Court, specifically, Fed. R. Civ. P. 26(a)(2) and 26(b)(4), and Local Rules 26-1(e)(3).
- d. **Interim Status Report:** In accordance with LR 26-3, the parties shall file the

Interim Status Report by **Thursday, June 9, 2016**, sixty (60) days prior to the discovery cut-off date of August 8, 2016.

- e. **Dispositive Motions:** Dispositive motions shall be filed by **Wednesday, September 7, 2016**, thirty (30) days after the discovery cut-off date of August 8, 2016, in accordance with LR 26-1(e)(4).
- f. **Motions in Limine/Daubert Motions:** Pursuant to LR 16-3(b), and unless the District Judge issues an Order with a different deadline or briefing schedule, any motions in limine, including *Daubert* type motions, shall be filed and served thirty (30) days prior to trial unless the District Judge issues an order with a different deadline or briefing schedule. Oppositions shall be filed and served and the motion submitted for decision fourteen (14) days thereafter. Reply briefs will only be allowed with leave of court.
- g. **Pretrial Order:** The Pretrial Order shall be filed not later than **Friday, October 7, 2016**, thirty (30) days after the deadline for filing dispositive motions date of September 7, 2016, in accordance with LR 26-1(e)(5). In the event dispositive motions have been filed, the Pretrial Order shall be suspended until thirty (30) days after a decision of the dispositive motions or further order of the Court.
- h. **FRCP 26(a)(3) Disclosures:** The disclosures required by Fed. R. Civ. P. 26(a)(3), and any objections thereto, shall be included in the final pretrial order in accordance with LR 26-1(e)(6).

- i. **Extensions or Modifications of the Discovery Plan and Scheduling Order:** In accordance with LR 26-4, any motion or stipulation to extend a deadline set forth in this discovery plan and scheduling order shall be received by the Court no later than twenty-one (21) days before the expiration of the subject deadline.

DATED this 1st day of June, 2016.

DATED this 1st day of June, 2016.

WATKINS & LETOFSKY, LLP

OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.

/s/ Daniel R. Watkins

/s/ Jill Garcia

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ORDER

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

June 3, 2016

DATED

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